

MAY 01 2023

Pro Se 10 (Rev. 12/16) Complaint for the Conversion of Property

JEFFREY P. ALLSTEADT, CLERK

INTAKE 2

UNITED STATES BANKRUPTCY COURT

for the

Northern District of Illinois

Felipe N Gomez, Debtor

Plaintiff

-v-

Larry Weisenthal, Connie Weisenthal, William King

Defendants

Case No. _____

(to be filled in by the Clerk's Office)

Jury Trial: (check one) ☐ Yes ☒ No

BR 7001

11 USC 541/542

18 U.S.C. Ch. 83, 1701-1702

Core Case #23-3023

Hon. Chief Judge A. Benjamin Goldgar

Ch. 7

DEBTOR'S PRO SE ADVERSARY COMPLAINT FOR THE
CONVERSION OF PROPERTY BY DIVERSION OF U.S. MAILS/THEFT

28 USC 1331 Federal Question

I. The Parties to This Complaint

A. The Plaintiff(s)

Name

Felipe N Gomez

Street Address

1415 Ardmore #7139

City and County

Villa Park, DuPage County

State and Zip Code

Illinois, 60181

Telephone Number

312.509.2071

E-mail Address

fgomez9592@gmail.com

B. The Defendant(s)

Defendant No. 1

Name

Larry Weisenthal

Job or Title (if known)

Husband of Successor Trustee/Initial Mail Diverter

Street Address

17301 Courtney Lane

City and County

Huntington Beach, Orange

State and Zip Code

CA 92649

Telephone Number

714-931-6734

E-mail Address (if known)

larry.weisenthal@gmail.com

Pro Se 10 (Rev. 12/16) Complaint for the Conversion of Property

Defendant No. 2

Name	Connie Weisenthal
Job or Title (if known)	Successor Trustee of Sandra W Gomez Living Trust
Street Address	17301 Courtney Lane
City and County	Huntington Beach, Orange
State and Zip Code	CA 92649
Telephone Number	714-931-6842
E-mail Address (if known)	quickspins@gmail.com

Defendant No. 3

Name	William J King
Job or Title (if known)	Former Attorney for Successor Trustee Connie/SWG Living
Street Address	401 Rockefeller Apt 1109
City and County	Irvine, Orange
State and Zip Code	CA 92612
Telephone Number	949-525-5357
E-mail Address (if known)	FR3EZINGXESKIMO@GMAIL.COM

II. Basis for Jurisdiction

28 USC 1331. BR 7001, 18 USC 1701/1702. 11 USC 541/542, .

III. Statement of Claim

A. Describe the property that you own that is the subject of this complaint, including its value.

1. All **mail** issued by Charles Schwab & Co. Inc. related to Sandra W Gomez UTMA account ending in 7542 and IRA account ending in 4115, where Plaintiff was named legal Custodian, from her date of death 7.4.11 to the beneficiaries 21st birthday, 11.11.19, of unknown value.

2. All **personal property** of Dr. Sandra W Gomez, including computers, computer files, and paper files, including HIPPA and Privacy Act protected medical records as to Plaintiff.

B. How and when did you come to own the property?

1. **Mail:** Plaintiff was Custodian of the two accounts from Plaintiff's mother's death on 7.4.11 until plaintiff's Son Arthur James Gomez reached 21 on 11.11.19, including as to all mail issued by Schwab which by law was to be addressed to Plaintiff, and which was instead sent to 1645 Sonota Lane, San Marcos, CA., where they were collected at least in part by Defendant Larry Weisenthal acting as "courier" for as of yet unidentified persons. *See Attachment A - 10.26.21 Affidavit of Larry Weisenthal.*

2. **Personal Property:** Plaintiff entered into a contract with the Living Trust by which the Trust was to deliver the property, but upon delivery the file cabinets previously containing the files were empty, and there were none of the 3 computers and hundreds of computer files contained with the furniture and other household items delivered.

Pro Se 10 (Rev. 12/16) Complaint for the Conversion of Property

C. How and when did the defendant(s) obtain possession of the property? Describe with particularity the actions the defendant(s) took to convert the property.

1. **Mail:** For as of yet undetermined reasons, upon the 7.4.11 passing of Plaintiff's mother, Dr. Sandra W. Gomez, and after notice from Plaintiff and Plaintiff's attorney Virginia Prihoda, as to Plaintiff's status and contact information, Schwab elected to send the mail related to the two accounts to the deceased Dr. Gomez as custodian for the accounts, for at least 9 years, which mail was intercepted and diverted by Defendants Larry and Connie Weisenthal, and which in information and belief is in King's possession or King has knowledge as to the location and fate of the diverted mail. Defendant Larry Weisenthal has admitted to his part in the diversion, although he has refused to divulge the identity of the persons he allegedly gave the intercepted mail to, whom on information and belief were Connie and/or King. *See Attachment A - Affidavit of Larry Weisenthal.*

2. **Property:** King failed to deliver the records and computers per the Probate contract wherein Plaintiff obtained title to same. (Contract to be submitted once verified).

D. (If the defendant(s) rightfully came into possession of the property): Describe how and when you notified the defendant(s) that the property belonged to you. Describe how and when you demanded that the defendant(s) deliver or return the property, and what response you received from the defendant(s). Attach a copy of any written correspondence with the defendant(s), if such copies exist.

1. **Mail.** The defendants did not rightfully come into possession of the diverted mail, as none of them were the addressee on the mail, which was supposed to be Plaintiff, despite Schwab electing to violate its fiduciary duty (subject of a separate adversary action) and mailing to a dead person at her old address, and Plaintiff has made numerous demands for the return of same, with no response.

2. **Property:** The Defendants did legally come into custody of the property, and it is unclear how much of same was transferred by the Weisenthals to King.

IV. Relief: Order Defendants to:

1. **Disclose** all information as to the diversion of (including names), and location of, the Schwab mail for the two accounts from 7.4.11 to 11.11.19, as well as to the undelivered personal property belonging to Plaintiff (files, records, computers);
2. **Turn over** any all mail and property related to the two accounts regardless of the addressee or address thereon, unless a Defendant's name appears thereon as addressee;
3. **Pay** compensatory and punitive damages of at least \$100,000, and/or the value of the property if destroyed, whichever is greater;
- 4) **Indemnify** any and all liability Plaintiff may have to beneficiary Arthur James Gomez, or the IRS, related to the Schwab mismailings and subsequent diversion of the mails, as well as the ongoing failure to disclose and disgorge same, and the failure of RMDs to be withdrawn by Plaintiff.
- 5) **Disclose** all information as to all loans made, funds invested or funds allegedly given by Sandra W Gomez to Larry Weisenthal, including but not limited as to his alleged oncology practice/business research laboratory/clinic.

Pro Se 10 (Rev. 12/16) Complaint for the Conversion of Property

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 4.30.23

Signature of Plaintiff


s/ Felipe N Gomez, Pro Se

Printed Name of Plaintiff

Felipe N Gomez, Pro Se

ATTACHMENT A

10.26.21 LARRY WEISENTHAL AFFIDAVIT

JURAT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of

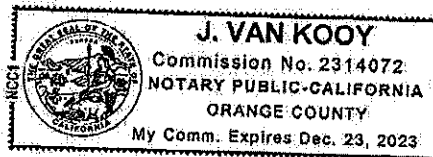
Orange

Subscribed and sworn to (or affirmed) before me on this 26 day of October, 2021 by Larry Weisenthal

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

J. Van Kooy
Signature

(Seal)



OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

General Affidavit

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 03 Document Date 10/26/2021

Additional Information

INSTRUCTIONS

The wording of all Jurats completed in California after January 1, 2015 must be in the form as set forth within this Jurat. There are no exceptions. If a Jurat to be completed does not follow this form, the notary must correct the verbiage by using a jurat stamp containing the correct wording or attaching a separate jurat form such as this one which does contain the proper wording. In addition, the notary must require an oath or affirmation from the document signer regarding the truthfulness of the contents of the document. The document must be signed AFTER the oath or affirmation. If the document was previously signed, it must be re-signed in front of the notary public during the jurat process.

- State and county information must be the state and county where the document signer(s) personally appeared before the notary public.
- Date of notarization must be the date the signer(s) personally appeared which must also be the same date the jurat process is completed.
- Print the name(s) of the document signer(s) who personally appear at the time of notarization.
- Signature of the notary public must match the signature on file with the office of the county clerk.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different jurat form.
 - ❖ Additional information is not required but could help to ensure this jurat is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
- Securely attach this document to the signed document with a staple.

GENERAL AFFIDAVIT

The within named person (Affiant), Larry Weisenthal, who is a resident of Orange, County, State of California, personally came and appeared before me, the undersigned Notary Public; and makes this his/her statement, testimony and General Affidavit under oath or affirmation, in good faith, and under penalty of perjury, of sincere belief and personal knowledge that the following matters, facts, and things set forth are true and correct, to the best of his/her knowledge:

1. I have no records regarding the late Sandra W Gomez, beyond strictly personal emails, family photographs, and HIPAA protected medical records. Specifically, I have no records whatsoever remotely related to my function as a courier, in picking up mail addressed to SW Gomez and delivering said mail to Successor Trustee of SW Gomez Trust, between summer of 2011 and summer of 2013. 2. I have no records or emails relating to William J King, save for emails strictly relating to the SW Gomez trust, which are subject to terms of the release of the negotiated settlement of disputes relating the SW Gomez Trust. Specifically, I have no records whatsoever remotely related to my function as a courier, in picking up mail addressed to SW Gomez and delivering said mail to Successor Trustee of SW Gomez Trust, between summer of 2011 and summer of 2013. 3. I have no records of Charles Schwab accounts listed on the enclosed subpoena, No 20CH3632, dated 10/4/2021. I have been relieved by Felipe Gomez of obligation to provide records generically related to myself (item # 5 in referenced subpoena).

Dated this 26 day of October, 2021,

Larry Weisenthal
Signature of Affiant

State of California

County of Orange

Subscribed and sworn to, or affirmed, before me on this 26 day of October, 2021 by Affiant _____

Signature of Notary Public

My Commission Expires:

For CA Notary Jurat, see Attached Document

B1040 (FORM 1040) (12/15)

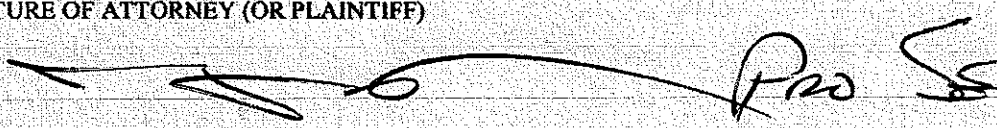

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS Felipe Nery Gomez	DEFENDANTS Larry Weisenthal, Connie Weisenthal, William J King	
ATTORNEYS (Firm Name, Address, and Telephone No.) PRO SE Felipe N Gomez, Pro Se, PO Box 7139, Villa Park, IL 60181	ATTORNEYS (If Known)	
PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) 28 USC 1331 Federal Question, 11 USC 541/542 Property of Estate; BR 7001(1), (2) (7) and (9) Adversary Proceeding		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <p>FRBP 7001(1) – Recovery of Money/Property</p> <p><input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property</p> <p><input type="checkbox"/> 12-Recovery of money/property - §547 preference</p> <p><input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer</p> <p><input type="checkbox"/> 14-Recovery of money/property - other</p> <p>FRBP 7001(2) – Validity, Priority or Extent of Lien</p> <p><input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property</p> <p>FRBP 7001(3) – Approval of Sale of Property</p> <p><input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)</p> <p>FRBP 7001(4) – Objection/Revocation of Discharge</p> <p><input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)</p> <p>FRBP 7001(5) – Revocation of Confirmation</p> <p><input type="checkbox"/> 51-Revocation of confirmation</p> <p>FRBP 7001(6) – Dischargeability</p> <p><input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims</p> <p><input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud</p> <p><input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny</p> <p style="text-align: center;">(continued next column)</p> </div> <div style="width: 48%;"> <p>FRBP 7001(6) – Dischargeability (continued)</p> <p><input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support</p> <p><input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury</p> <p><input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan</p> <p><input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)</p> <p><input type="checkbox"/> 65-Dischargeability - other</p> <p>FRBP 7001(7) – Injunctive Relief</p> <p><input type="checkbox"/> 71-Injunctive relief – imposition of stay</p> <p><input checked="" type="checkbox"/> 72-Injunctive relief – other</p> <p>FRBP 7001(8) Subordination of Claim or Interest</p> <p><input type="checkbox"/> 81-Subordination of claim or interest</p> <p>FRBP 7001(9) Declaratory Judgment</p> <p><input checked="" type="checkbox"/> 91-Declaratory judgment</p> <p>FRBP 7001(10) Determination of Removed Action</p> <p><input type="checkbox"/> 01-Determination of removed claim or cause</p> <p>Other</p> <p><input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i></p> <p><input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)</p> </div> </div>		
<input type="checkbox"/> Check if this case involves a substantive issue of state law		<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23
<input type="checkbox"/> Check if a jury trial is demanded in complaint		Demand \$ 100,000
Other Relief Sought Turnover/Indemnity		

FILED
 UNITED STATES BANKRUPTCY COURT
 NORTHERN DISTRICT OF ILLINOIS

MAY 01 2023

JEFFREY P. ALLSTEADT, CLERK
 INTAKE 2

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Felipe Nery Gomez		BANKRUPTCY CASE NO. 23-3023
DISTRICT IN WHICH CASE IS PENDING ND ILLINOIS	DIVISION OFFICE	NAME OF JUDGE A. Benjamin Goldgar
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 		
DATE 5.1.23 	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Felipe Nery Gomez, Pro Se	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.